REMARKS

Claims 1-22 are in the case and presented for reconsideration.

Claims 1-22 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,073,043 (Schneider).

Applicant's claimed present invention of Claim 1 and Claim 12 is directed to a method and apparatus for tracking an object comprising in part producing energy fields at *a plurality of different frequencies* in a vicinity of the object (through use of at least one radiator as set forth in Claim 12) and receiving signals that are generated at a location of the object *at the different frequencies* in response to the energy field and making *multiple computations of spatial coordinates* of the object based on the signals received *at the different frequencies*. Additionally, the claimed present invention of Claim 1 and Claim 12 also comprise ascertaining whether the energy fields have been perturbed by an article in the vicinity of the object by testing a convergence of the computations and if testing reveals a convergence of the computation, then repeating these steps for N repetitions, where N equals a plurality of times (through use of a system controller as set forth in Claim 12).

In reaching the above-outlined rejection that Examiner has pointed the Applicant's attention to particular teachings in Schneider (such as Col. 9, Lines 8 – 67; Col. 10, Lines 1 – 67 and Col. 11, Lines 1 – 49 with particular attention to "note lines 16-17" of Col. 11). Upon careful scrutiny of each of these teachings in Schneider, it is clear that none of the models discussed in this reference address a method and apparatus for tracking an object comprising producing energy fields at a plurality of different frequencies in a vicinity of the object (through use of at least one radiator as set forth in Claim 12) and receiving signals that are generated at a location of the object at the different frequencies in response to the energy field and making multiple computations of spatial coordinates of the object based on the signals received at the different frequencies.

Moreover, Applicant has duly noted the particular teaching in Schneider at Col. 11, Lines 16-17, especially where it states:

> All these models (and others not mentioned) can be used to solve the P&O processes that are to be discussed. Col. 11, Lines 15 – 17.

It is well-established precedent that a reference must enable someone to practice the invention in order to anticipate under 35 USC §102(b). *Symbol Technologies v. Opticon Inc.*, 935 F.2d 1569, 19 USPQ 2d 1241, 1247 (Fed. Cir. 1991). Thus, based on the very general and vague teachings in Schneider, it is clear that this reference could never teach someone of ordinary skill in this field to make and use the key elements/steps of Applicant's claimed present invention, particularly, a method and apparatus for tracking an object comprising producing energy fields at a plurality of different frequencies in a vicinity of the object (through use of at least one radiator as set forth in Claim 12) and receiving signals that are generated at a location of the object at the different frequencies in response to the energy field and making multiple computations of spatial coordinates of the object based on the signals received at the different frequencies.

Furthermore, it is also well established that rejections under 35 USC §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. *In re Arkley*, 59 CCPA 804, 455 F. 2d 586, 587, 172 USPQ 524, 526 (1972). Thus, in order to constitute an anticipation, all material elements recited in a claim must be found in one unit of prior art. *Soundscriber Corp. v. United State*s, 360 F.2d 954,960, 148 USPQ 298, 301 (Ct. Cl. 1966).

And, upon careful review of Schneider, it is evident that this reference fails to identically disclose or describe the key elements/steps of Applicant's claimed present invention such as a method and apparatus for tracking an object comprising producing energy fields at a plurality of different frequencies in a vicinity of the object (through use of at least one radiator as set forth in Claim 12) and receiving signals that are generated at a location of the object at the different frequencies in response to the energy field and making multiple computations of spatial coordinates of the object based on the signals received at the different frequencies in conjunction with ascertaining whether the energy fields have been perturbed by an article in the vicinity of the object by testing a convergence of the computations and if testing reveals a convergence of

the computation, then repeating these steps for N repetitions, where N equals a plurality of times (through use of a system controller as set forth in Claim 12). Accordingly, Applicant's claimed present invention is simply not anticipated by this reference.

Additionally, the PTO has the burden under section 103 of establishing a *prima facie* case of obviousness. This burden can only be satisfied by showing some objective teaching in the prior art or that knowledge generally available in the art would lead one of ordinary skill in the art to combine the relevant teachings of the reference. See In re Fine, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Thus, based on the vague teachings set forth in Schneider, there is no suggestion or teaching in this reference that would ever lead to Applicant's claimed present invention as outlined above.

Accordingly, by this Amendment and for the reasons listed above, the claimed present invention as amended is neither anticipated by nor rendered obvious by the cited prior art references and favorable action is respectfully requested.

Respectfully submitted,

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